

California Regional Water Quality Control Board
Santa Ana Region
Staff Report
May 27, 2005

ITEM: 14

SUBJECT: Mandatory Penalties Complaint No. R8-2005-0005 (Amended April 29, 2005),
Aera Energy LLC, Huntington Beach, Orange County

BACKGROUND

On February 14, 2005, the Executive Officer issued Mandatory Penalties Complaint (MPC) No. R8-2005-0005 to Aera Energy LLC (Aera) for alleged violations of Waste Discharge Requirements, Order No. R8-2002-0078 (NPDES No. CAS618001). This order regulates the discharge of storm water associated with industrial activities at the Aera Energy LLC, Huntington Beach facility. On April 29, 2005, the Executive Officer revised the MPC (copy attached). In the MPC, the Executive Officer proposed a mandatory minimum penalty of \$6,000 for the alleged violations.

INTRODUCTION

The matter before the California Regional Water Quality Control Board, Santa Ana Region (Board), is to consider adoption of Order No. R8-2005-0068, which affirms MPC No. R8-2005-0005 (amended). MPC No. R8-2005-0005 (amended) was issued by the Executive Officer to Aera for violations of the Permit for which the Board must impose a mandatory penalty pursuant to California Water Code (Water Code) Section 13385(h).

DISCUSSION

Aera currently operates a crude oil and gas production facility at its site in Huntington Beach. The storm water runoff from the facility is regulated under the Permit. The Permit contains effluent limits for pH, oil and grease, total organic carbon, and total suspended solids.

A review of the annual self-monitoring reports submitted by Aera from July 2002 to June 2003 indicates that there were two effluent limit violations, which are summarized below:

Constituent (Pollutant Group Identification)	Effluent Limit	Mandatory Penalty Trigger Limit	Concentration (Date of Violation)	Total Violations Subject to MPC
Total Suspended Solids (Group I)	100 mg/L	140 mg/L	220 mg/L (3/15/03@ Outfall #6)	1
			390 mg/L (3/16/03 @ Seapoint Ave.)	1
Total Violations:				2

The Board must impose mandatory penalties for each serious effluent limit violation. The total mandatory penalties for both of these violations are \$6,000 (2 x \$3,000=\$6,000).

The Executive Officer issued MPC No. R8-2005-0005 (amended) proposing that the Board impose mandatory penalties of \$6,000 per Water Code Section 13385 on Aera for the violations cited above.

STATEWIDE ENFORCEMENT POLICY

On February 19, 2002, the State Water Resources Control Board adopted a Revised Water Quality Enforcement Policy to ensure that enforcement actions throughout the State are fair, firm and consistent. The above-described mandatory penalties complaint is in accordance with the State Enforcement Policy.

RECOMMENDATION


Board staff recommends that the Board affirm MPC No. R8-2005-0005 (amended) by adopting Order No. R8-2005-0068.

1. Aera Energy LLC is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), must impose liability under Section 13385(h) of the California Water Code.
2. A hearing concerning this Complaint will be held before the Board within 90 days of the date of issuance of this complaint, unless Aera Energy LLC waives its right to a hearing. Waiver procedures are specified on Page 2, Item 9, of this complaint. If the hearing in this matter is not waived, the hearing will be held during the Board's regular meeting on **May 27, 2005, at the City Council Chambers, City of Santa Ana, 22 Civic Center Plaza, Santa Ana, California**. The meeting will begin at 9:00 a.m. Aera Energy LLC or its representatives will have an opportunity to appear and be heard and to contest the allegations in this Complaint and the imposition of mandatory penalties by the Board. An agenda for the meeting will be mailed to you not less than 10 days prior to the hearing date.
3. If the May 27, 2005 hearing is held, the Board will consider whether to affirm, reject or modify the proposed mandatory penalties or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. This Complaint is based on the following facts:
 - a. On October 25, 2002, the Board adopted Waste Discharge Requirements Order No. R8-2002-0078 (NPDES No. CAS 618001) for Aera Energy LLC. This order regulates the discharge of storm water associated with industrial activities at the Aera Energy LLC, Huntington Beach facility.
 - b. Aera Energy LLC submitted annual reports for storm water discharges collected from its site, which show effluent limit violations for total suspended solids. These violations are summarized on Attachment A, which is Page 3 of this Complaint.

5. Water Code Section 13385(h) requires the Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation.
6. As indicated on Attachment A, there are two (2) serious violations that meet the mandatory minimum penalty criteria specified in Section 13385(h). These violations are both effluent limit violations.
7. Pursuant to Section 13385(c) of the California Water Code, the Board may impose administrative civil liability for the violations cited in Attachment A. The maximum administrative civil liability that may be imposed for these violations is \$20,000 (for a total of 2 days of violations at \$10,000 per day for each day of violation).
8. The Executive Officer proposes that the Board impose mandatory penalties of \$6,000 on Aera Energy LLC for the violations cited above.
9. You may waive your right to a hearing. If you waive your right to a hearing, please sign the attached waiver form and mail it, together with a check or money order payable to the State Water Resources Control Board, for the amount of mandatory penalties proposed under paragraph 8 above. The check or money order, the waiver form, and the bottom portion of the invoice should be mailed to Sacramento in the enclosed envelope.

If you have any questions, please contact Mark Smythe at (951) 782-4998, or Patrice Copeland at (951) 321-4576. For legal questions, contact the Regional Board's legal counsel, Jorge Leon, at (916) 341-5180.

4/29/05
Date



Gerard J. Thibeault
Executive Officer

Attachment "A"

**Summary of Effluent Limit Violations
Aera Energy LLC**

Constituent (Pollutant Group Identification)	Effluent Limit	Mandatory Penalty Trigger Limit	Concentration (Date of Violation)	Total Violations Subject to MPC
Total Suspended Solids (Group I)	100 mg/L	140 mg/L	220 mg/L (3/15/03@ Outfall #6)	1
			390 mg/L (3/16/03 @ Seapoint Ave.)	1
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